IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

TUESDAY, THE 6TH NOVEMBER 2007 / 15TH KARTHIKA 1929

Crl.MC.No. 4661 of 2002

CC.765/1997 OF JUDL. MAGISTRATE OF FIRST CLASS COURT, VADAKKANCHERY

PETITIONER/ ACCUSED NO.4

BROOKE BOND LIPTON INDIA LIMITED,150, LUZ CHURCH ROAD,MYLAPORE,MADRAS,REPRESENTED BY ITS BRANCH MANAGER,MR.S.K.GHATAK

BY ADV. SRI.N.A.MURALEEDHARAN
SRI.M.T.SURESHKUMAR

RESPONDENTS: COMPLAINANT AND STATE

1. JANARDHANAN C.A.,THE FOOD INSPECTOR, KUNNAMKULAM CIRCLE,(KATTAKAMPAL PANCHAYAT) ONDAL P.O.

2. THE STATE OF KERALA,REPRESENTED BY THE PUBLIC PROSECUTOR,HIGH COURT OF KERALA,ERNAKULAM

BY PUBLIC PROSECUTOR SRI. C.K.SURESH

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 06/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER ON CMP NO. 3145/2002 IN CRL.M.C NO. 4661/2002.

DISMISSED

06/11/2007. **SD/- K.R.UDAYABHANU, JUDGE.**

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K.R.UDAYABHANU, J

Crl.M.C.No.4661 of 2002

Dated this the 6th day of November, 2007

O R D E R

The petitioner who is the fourth accused in C.C.No.765/97 in the file of the Judicial First Class Magistrate Court, Wadakkancherry with respect to the offences under Sections 2(ia)(a) and 7(i)(v) read with Sections 16(1)(a)(1-A) (i) of the Prevention of Food Adulteration Act, has sought for getting quashed the above proceedings alleging that the mandatory provision contained in Section 13(2B) of the PFA Act that stipulates that the Director of the Central Food Laboratory should return the certificate after analysis to the court in the prescribed form within one month from the date of receipt of the part of the sample specifying the result of the analysis.

2. In the instant case the sample of skimmed milk powder was taken on 12.11.1996. The public analysis report is dated 4.1.1997. The complaint has been instituted on 2.4.1997. At the request of the petitioner herein the remaining sample was forwarded to the Central Food Laboratory and the same was received at the Laboratory on 23.5.1997. The certificate of analysis

of Central Food Laboratory is dated 30.6.1997. Hence, evidently more than one month have elapsed since the date of receipt of the sample by the Director of Central Food Laboratory. The counsel has relied on the decision of **Darshan Lal vs. The State of Punjab (1982(I) FAC 290)**, **Mohan Lal vs. The State of Haryana (1984(II)FAC 206)** and **Syed Ahmad vs. State of U.P. (1996(2)FAC 229)**. The various High Courts have stressed the fact that the provision contained in Section 13(2B) of the PFA Act that the Director of the Central Food Laboratory should return the findings to the court within one month from the date of receipt of the sample is mandatory. Further, the adulteration as per the Central Food Laboratory is because moisture content exceeded by .48%. Evidently, the quality of the commodity would have deteriorated. In the circumstances, I find that the accused is entitled to get the proceedings quashed. In the result, the entire proceedings pending as C.C.No.765/97 in the file of Judicial First Class Magistrate Court, Wadkkancherry is herewith quashed.

The Crl.M.C. is allowed.

K.R.UDAYABHANU,
JUDGE

csl